

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

DEBRA HATTEN-GONZALES, et al.,

Plaintiffs,

vs.

No. CIV 88-0385 KG/CG

Consolidated with

No. CIV-88-0786 KG/CG

BRENT EARNEST, Secretary of the
New Mexico Human Services Department,

Defendant.

JOINT STATUS REPORT

On March 28, 2018, the parties in this matter held a Meet and Confer pursuant to this Court's Orders. Defendant, Brent Earnest was present with his legal counsel, Christopher Collins, as well as Mary Brogdon, Director of the Income Support Division and other staff from the Income Support Division and Medical Assistance Division of the Human Services Department. Dan Yohalem, Sovereign Hager and Maria Griego attended on behalf of the Plaintiffs. Special Master, Lawrence Parker, and Compliance Specialist, Ramona McKissic were also in attendance. Below is a summary of the matters addressed by the parties and the Special Master in the Meet and Confer, including each party's respective position on the matter and any documented agreements or outcomes.

1) Emergency Medical Services for Aliens (EMSA)

- a. The HSD Interim Business Process on EMSA was put into place in June of 2014 to maintain how EMSA case processing worked prior to implementation of ASPEN. Applicants receive a MAD 309 or 310 and a Notice of Case Action concerning their

eligibility for EMSA. The MAD 310 also goes to the medical provider and contains more detailed information about EMSA than what is contained in the NOCA.

b. Content from the MAD 309 and 310 may be integrated into the NOCA. HSD stated that the current NOCA approval and denial language is specific to EMSA. Currently the NOCA denial section says that the client was not approved for full coverage Medicaid because he/she does not meet the immigrant eligibility requirements. The approval section informs the client that he/she has been approved for EMSA. HSD agreed to provide specific NOCA examples to Plaintiffs' Counsel.

c. Neither the MAD 309 or 310 have undergone a literacy review. The Department does not currently have a deadline for when the literacy review will take place. HSD will provide Plaintiffs with a deadline for the literacy review in the near future.

d. HSD reports that the timeliness of EMSA application processing is tracked manually in a spreadsheet listing every case HSD processes. It is not generated into a report and EMSA timeliness data is not included in data reports on the timeliness of Medicaid case processing. HSD reports that workers record the application date from case notes into the spreadsheet, since application date is not recorded by workers in the application date field in ASPEN. Secretary Earnest stated HSD would consider incorporating reporting on the timeliness of EMSA applications with other timeliness data.

e. HSD indicated that in 2017 there were 71 total procedural denials for EMSA cases. Plaintiff requested additional EMSA data, which was provided on April 6, 2018, and is also included here.

CY 2017 EMSA - Distinct Individual Counts					
	Total	Procedural	Need Based	Unknown	% Procedural
Denials	185	71	112	2	38.4%
Approvals	2,676				

- 2) **EBT Cards:** The Department reports that clients who do not have an SSN can obtain an alternate ID number from the HSD call center. The EBT contractor's call center informs callers that they can enter an SSN or alternative ID number to activate the EBT Card. If the caller does not have an alternative ID number, the EBT card contractor's phone system provides the caller with the specific option of being transferred to the HSD call center to obtain the number. The HSD call center is staffed Monday through Friday, during regular business hours. Callers calling outside of normal business hours can leave a voicemail. Return calls (and alternative ID numbers) will be provided the next working day.

- 3) **Postponed Interviews:**

- a. FNS is requiring HSD to limit postponed interviews under the FNS waiver to 20% of HSD's SNAP expedite caseload. The Department will begin a pilot program on April 2, 2018 in 10 field offices across the State in an attempt to conduct interviews prior to the 7th day on which expedite benefits are released. The pilot will occur during the month of April. Statewide implementation will begin in May. The details of the pilot program and specific instructions to caseworkers are explained in the draft GI sent to Plaintiffs' counsel on March 23, 2018. The Department must submit an extension request for this waiver to FNS prior to September 2018. FNS warned the Department that if it has not made significant progress towards reducing the number of expedite cases that receive a postponed interview, the waiver extension will not be approved.
 - b. Plaintiffs' counsel requested that the Notice of Interview include a number for the call center so that clients can call to complete their interview, since in many instances families will receive the notice scheduling their interview after the interview was scheduled to occur. HSD staff indicated they believed the number was already included in the notice. HSD sent the notice storyboard to Plaintiffs' counsel as confirmation that the notice already contains the appropriate contact numbers. .
 - c. The Department has a draft script that workers must use when making cold call interview attempts. HSD sent the scripts to Plaintiffs' counsel.
 - d. Plaintiffs' Counsel, Special Master and the Department discussed the fact that offices other than the pilot counties have already implemented elements of the changes for SNAP interview scheduling. HSD stated that a directive had been issued and rescinded and that FNS feedback to specific offices may result in some offices implementing new interview scheduling protocols. The pilot will lead to a standardized process across the offices to the meet this FNS requirement.
 - e. There is currently a manual print process for interview notices because ASPEN does not allow interview notices to be printed when the interview is scheduled to take place less than 5 days from the date the notice is created. HSD has submitted a work request and change request to re-program ASPEN so that it can print interview notices.
- 4) **Worker Manual:** The contract with C!A requires delivery of a draft manual in June, 2018. The Department will put it into use after review. HSD will provide Plaintiffs' counsel with a draft version for review and comment. HSD requested a quick turnaround. Plaintiffs' counsel stated that they will require at least the standard 30 day period for review and comment, given the large amount of material covered by a worker manual. Mr. Parker suggested that the manual be provided to Plaintiffs' Counsel in increments, as the contractor provides sections to HSD for comment. Plaintiffs' counsel requested that they be provided an

opportunity to provide some input to the Contractor into what would be helpful in a manual early in the process. HSD said it would consider these requests.

5) Office re-organization:

a. Staffing changes in Portales and Clovis offices are for back office case processing only and will not have an impact on client services. All back-office processing will move to Clovis. Portales calls will be re-directed to Clovis. Interview notices sent to Portales clients will still list the Portales office as the location for in-person interviews. All regular lobby functions will still occur in Portales. The planned changes will not cause a shortage of workers to meet the needs of clients calling Portales.

b. There have been changes made to management in the Albuquerque offices. The Southeast County Director has been moved to the Northwest office and the County Director from the Northwest office has been moved to the Southeast office. Some line managers followed each Director.

6) NOCA and HUMAD: Plaintiffs' Counsel have not reviewed a large number of new NOCAs, but did note one concern: for SSI related Medicaid the NOCA alerts applicants that coverage "does not renew". HSD staff took note of the potential issue. At the request of Plaintiffs' counsel, HSD agreed to provide all current Work and Change Requests concerning the NOCA to Plaintiffs' Counsel. Plaintiffs' Counsel also notified HSD staff that the HUMAD instructs applicants to turn in the HUMAD.

7) Immigrant eligibility: The Department stated that the JAD on the immigrant detail page had to be rescheduled so that HSD can make necessary changes to conform to the updated SAVE system. Agreed upon changes to the dropdown menu that will list immigration statuses rather than "documented," "undocumented," and "other" will occur in May 2018. HSD is currently working on mapping documents to statuses. They will start testing the revised system after the April 2018 JAD sessions. HSD stated that Plaintiffs' Counsel should bring any requested testing scenarios to the JAD sessions.

8) Auto-closure/auto-denial:

a. Auto-denial has begun with five pilot offices. The pilot offices will review the cases that were auto-denied against the current Individualized Eligibility Review (IER) form. The Department agreed to pull a series of cases that were auto-denied for Plaintiffs' counsel to review. The Department will also compile reports on the cases that were auto-denied in the five pilot offices, and the result of the IER analysis and will provide those reports to Plaintiffs' Counsel. The pilot will be at least one full week long, including the weekend. HSD informed Plaintiffs' Counsel that the pilot offices will begin auto denial April 1, 2018.

b. Assuming that there are no problems associated with auto-denial process in the five pilot offices, the Department plans to move forward with auto-closure in all field offices, without first conducting a test in pilot offices. HSD stated that auto-closure would begin no sooner than April 30, 2018. Reports will also be generated with auto-closure and will be shared with Plaintiffs' counsel.

Respectfully submitted,

/s/ Maria Griego

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of April 2018, I filed the foregoing pleading electronically with the United States District Court, causing the same to be electronically served on opposing counsel.

/s/ Christopher P. Collins, Esq.

Christopher P. Collins, Esq.